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Editors Favor Exemption From Espionage Laws

Association to File Friend-of-the-Court Brief in Review of Naval Analyst's Conviction

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By George Lardner Jr.
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O The American Society of News-
paper Editors has decided to sup-
port court review of the conviction
last fall of former naval intelligence
analyst Samuel Loring Morison in
hopes of winning a ruling that es-
pionage laws do not apply to the
news media.

The 20-member ASNE board
voted unanimously to file a friend-
of-the-court brief as it wound up its
convention here last month. ASNE
general counsel Richard M.
Schmidt Jr. said the action came on
the recommendation of the organiza-
tion's freedom of information
committee.

Morison, the grandson of the late
famed naval historian Samuel Eliot
Morison, was found guilty by a fed-
eral jury in Baltimore of espionage
and theft for leaking three "secret"
U.S. spy satellite photos to a British

magazine. He was the first person
convicted of a crime for leaking
classified information to the news
media.

The magazine, Jane's Defence
Weekly, was not charged in the
case, but under the government
theory of prosecution used in the
trial, news organizations that re-
ceived such leaks could also be in-
dicted and prosecuted under the
same laws.

Justice Department officials have
refused to rule out such a possibil-
ity.

O The board of the American
Newspaper Publishers Association,
which won a 1950 amendment to
the espionage laws designed to pro-
tect the press, has also decided to
file a friend-of-the-court brief.

ANPA may file with ASNE and
other media groups.

Lawyers for Morison, who was
sentenced to two years in prison but
is free on appeal bond, said they

were pleased by the actions. The
case is pending before the 4th Cir-
cuit Court of Appeals in Richmond.

"For reasons I don't completely
understand, I guess this has been a
difficult decision for the press
groups, but I'm glad they're coming
around," Morison attorney Mark
Lynch said.

"Once you let the genie out of the
bottle and apply the [espionage]
statute to leaks, there is nothing on
its face to prevent it from being
used against the reporter as well as
the leaker," he added.

ASNE's Schmidt said, "What we
want to clarify is that the espionage
laws, as used in the Morison case or
any other case of that kind, do not
apply to the press . . . There's no
case law on that, but there is leg-
islative history."

Schmidt was referring to a
provision drafted by the late ANPA
general counsel Elisha Hanson and
sponsored by the late senator Pat
McCarran (D-Nev.) when Congress
last revised the espionage laws in
the form of the Internal Security
Act of 1950.

The enacted amendment states:
"Nothing in this act shall be con-
strued to authorize, require or es-
tablish military or civilian censor-
ship or in any way to limit or in-
fringe upon freedom of the press or
of speech as guaranteed by the Con-
stitution of the United States and
no regulation shall be promulgated
hereunder having that effect."